

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4963 of 1997

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1. Rajendra Prasad, son of Shri Ram Pyare Singh, resident of village-Sipaha, P.S.-Daudnagar, District-Aurangabad.
 2. Rabindra Prasad, son of Shri Bhuneshwar Prasad, resident of village-Sahu Bigha, P.S.-Kako, District-Jehanabad.
 3. Pulendra Thakur, son of Shri Satya Narayan Thakur, resident of village-Madhukar Chowk, P.S.-Bihariganj, District-Madhepura.
 4. Baliram Lal Karn, son of late Hari Ballav Lal Das, resident of village-Madanpur, P.S.-Laheria Sarai, District-Darbhangha.

.... Petitioners

Versus

1. The State of Bihar
2. The Secretary, Revenue Department, Government of Bihar, Patna.
3. The Director, Land Record and Measurement, Government of Bihar, Patna.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Mukesh Kumar Jha

For the Respondent/s : Mr. Sanjeev Kumar Singh, AC to SC-12

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA

ORAL JUDGMENT

Date: 29-01-2015

Heard the parties.

This is, in fact, 2nd round of litigation at the behest of the petitioners before this Court.

The petitioners had earlier moved before this Court in CWJC No.1437 of 1993 assailing the validity and correctness of the order dated 19th December, 1992 (Annexure-4 in that writ petition), whereby the petitioners were reverted from Class-III post of Muharrir to the Class-IV post on the ground that their promotion granted earlier from Class-IV post to Class-III post was illegal. By the judgment and order dated 9th February, 1995 (Annexure-4) passed by a Bench of this Court (Coram: Sudhansu Jyoti Mukhopadhyaya, J. since His Lordship then was), the order dated 19th December, 1992 (Annexure-4 in that writ petition) was set aside on the ground of violation of principles of natural justice and the matter was remitted back with a direction to pass fresh order in accordance with law after issuing show cause notices to the petitioners.

In the light of the aforesaid judgment and order dated 9th February, 1995 show cause notices were issued to the petitioners and after giving an opportunity of hearing to them as also on consideration of the entire materials, by the impugned order dated 22.03.1997 (Annexure-7) passed by the respondent no.3 the petitioners have been reverted to the original Class-IV posts on which they were appointed. While passing the impugned order, the respondent no.3 has come to a finding that the post of Muharrir is a direct and independent post and that post is required to be filled up by starting regular selection process by the competent authority. The petitioners could not have been promoted to the aforesaid post of Muharrir from Class-IV post. It has further been held that the order of promotion granted earlier was a nullity as it was passed contrary to the procedure prescribed under the law and in violation of the rules of reservation.

Indisputably, the impugned order dated 22.03.1997 was never stayed by this Court. The petitioners who came in service on Class-IV posts in the 1970's either might have superannuated from their services or they may be at the verge of superannuation. Learned counsel appearing on behalf of the petitioners has fairly submitted that he has no instruction on that point.

In the factual matrix of the case, as noticed above, this Court does not find any good ground to interfere with the impugned order dated 22.03.1997 (Annexure-7) and that too after almost 18 years from the date of passing of the impugned order. The things which have already been settled by the impugned order should not be unsettled after such a long time without any valid justification.

In the result, the writ petition has to fail and is, accordingly, dismissed, but there shall be no order as to costs.

Arvind/-

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(Birendra Prasad Verma, J)